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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,895	10/12/2001	Mark D. Penk	A-7485	1171

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EXAMINER	
ENGLAND, DAVID E	
ART UNIT	PAPER NUMBER
2443	

NOTIFICATION DATE	DELIVERY MODE
05/21/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOmail@sciatl.com

Office Action Summary	Application No.	Applicant(s)	
	09/975,895	PENK ET AL.	
	Examiner	Art Unit	
	DAVID E. ENGLAND	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 January 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16-21,25,26,35-40,42,44,46-56,58 and 60-63* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-21, 25, 26, 35-40, 42, 44, 46-56, 58 and 60-63* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 16-21, 25, 26, 35-40, 42, 44, 46-56, 58 and 60-63 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 16 – 21, 35, 36, 39, 40, 42, 49, 52, 53, 54, 58, 61 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner et al. (6112239) (hereinafter Kenner) in view of Haeri et al. (6604241), hereinafter Haeri.

4. Referencing claim 16, as closely interpreted by the Examiner, Kenner teaches a method for enabling a receiver in a digital subscriber network to request services, the method comprising the steps of:

5. receiving, at a receiver, a dynamic network information table inserted within a transport stream from a first device, (e.g., col. 16, lines 43 – 67); and

6. the dynamic network information table including an upstream subtable, (e.g., col. 16, lines 43 – 67);

7. the first device positioned in the digital subscriber network upstream with respect to the receiver, (e.g., col. 16, lines 43 – 67 & col. 17, line 44 – col. 18, line 29 "MSP/redirection server"),

8. the upstream subtable including information associated with transmission characteristics of one or more devices positioned in the digital subscriber network upstream with respect to the first device, (e.g., col. 16, lines 43 – 67 & col. 17, line 44 – col. 18, line 29);

9. transmitting a request for a service, the requested service including at least a portion of the information included in the dynamic network information table, (e.g., col. 16, lines 43 – 67 & col. 17, line 44 – col. 18, line 29), but does not specifically teach the dynamic network information table including a device-specific subtable;

10. the device-specific subtable including information associated with transmission characteristics of the first device, the first device positioned in the digital subscriber network upstream with respect to the receiver. It could be argued that the redirection server of Kenner would have to send an address of some sort to communicate with the user and that could be considered a "transmission characteristic" but the address of the first device is not explicitly stated.

11. Haeri teaches the dynamic network information table including a device-specific subtable, (e.g., col. 15, line 55 - col. 16, line 35 et seq., The ability to send a "Get" command and receive routing table entries from a first router that would also have what routing characteristics of other routers which is the essence of a routing table.);

12. the device-specific subtable including information associated with transmission characteristics of the first device, the first device positioned in the digital subscriber network upstream with respect to the receiver, (e.g., col. 15, line 55 - col. 16, line 35 et seq.).

13. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Haeri's ability to specifically request parameters from all nodes in their network with Kenner's specific teachings of sublists that include device specific information on which device can accommodate a specific user's request because it would give the user the ability to determine which node in the network would be best suited for the request if the user had all the information needed to make the determination, see Kenner, column 18, lines 53 et seq.

14. Referencing claim 17, as closely interpreted by the Examiner, Kenner teaches identifying from the dynamic network information table and upstream device associated with the requested service, (e.g., col. 16, lines 43 – 67 & col. 17, line 44 – col. 18, line 29); and

15. including the identification of the upstream device in the transmitted request for the service, (e.g., col. 16, lines 43 – 67 & col. 17, line 44 – col. 18, line 29).

16. Referencing claim 18, as closely interpreted by the Examiner, Kenner teaches identifying a controller associated with the identified upstream device, (e.g., col. 16, lines 43 – 67 & col. 17, line 44 – col. 18, line 29 MSP);

17. wherein transmitting the request for the service includes transmitting the request to the controller, (e.g., col. 16, lines 43 – 67 & col. 17, line 44 – col. 18, line 29 MSP).

18. Referencing claim 19, as closely interpreted by the Examiner, Kenner teaches determining a communication path through the digital subscriber network for the requested service, (e.g., col. 18, line 30 – col. 19, line 50, Mapping the user's IP address to an IP address of a node that can accommodate the user in the same network.); and

19. including the communication path in the transmitted request for the service, (e.g., col. 18, line 30 – col. 19, line 50).

20. Referencing claim 20, as closely interpreted by the Examiner, Kenner teaches the communication path is determined based upon network information included in the received dynamic network information table, (e.g., col. 18, line 30 – col. 19, line 50).

21. As per claim 21, as closely interpreted by the Examiner, Kenner does not specifically teach the dynamic network information table includes available bandwidth of at least one upstream communication link in the digital subscriber network. Haeri teaches the dynamic network information table includes available bandwidth of at least one upstream communication link in the digital subscriber network, (e.g., col. 16, lines 10 - 36). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Haeri with Kenner because sending bandwidth data between servers and client while setting up a connection would set the parameters of the network connections so that proper allocation of bandwidth can be utilized across the network devices.

22. Claims 35, 36, 39, 40, 42, 49, 52, 53, 54, 58, 61 and 63 are rejected for similar reasons as stated above.

23. **Claims 25, 26, 37, 38, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner and Haeri in further view of Rakib et al. (6889385), hereinafter Rakib.**

24. Referencing claim 25, as closely interpreted by the Examiner, Kenner and Haeri do not specifically teach the dynamic network information table is included in a packet having a reserved packet identifier associated therewith.

25. Rakib teaches the dynamic network information table is included in a packet having a reserved packet identifier associated therewith, (e.g., col. 10, line 23 – col. 11, line 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Rakib with the combine inventions of Kenner and Haeri because utilizing packet identifiers allows a system to identify specific streams of packets to a specific request and therefore resolve the request in the system.

26. Referencing claim 26, as closely interpreted by the Examiner, Kenner and Haeri do not specifically teach the packet is a program association table packet. Rakib teaches the packet is a program association table packet, (e.g., col. 10, line 23 – col. 11, line 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Rakib with the combine inventions of Kenner and Haeri since utilizing a program association table

packet in a set-top-box network allows the system to associate specific identification numbers with specific programs which further allows for smaller packets since the entire program is not requested only a small number, PIDs.

27. Referencing claim 37, as closely interpreted by the Examiner, Kenner and Haeri do not specifically teach the second transport stream includes multiple elementary streams of the first transport stream. Rakib teaches the second transport stream includes multiple elementary streams of the first transport stream, (e.g., col. 38, line 52 – col. 39, line 24, *"channels and subchannels"*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Rakib with the combine inventions of Kenner and Haeri because utilizing smaller subchannels allows for a more specific response from the main channels, i.e. channels that share the same traits, sports, news, etc.

28. Referencing claim 50, as closely interpreted by the Examiner, Kenner and Haeri do not specifically teach the network information includes a transport stream identifier (TSID) for the received transport stream. Rakib teaches the network information includes a transport stream identifier (TSID) for the received transport stream, (e.g., col. 10, line 43 – col. 11, line 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Rakib with the combine inventions of Kenner and Haeri because of similar reasons stated above.

29. Claim 51 is rejected for similar reasons as stated above.

30. Claims 44, 46, 47, 60 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner and Haeri in view of Nobakht et al. (6813639) (hereinafter Nobakht).

31. As per claim 44, as closely interpreted by the Examiner, Kenner and Haeri do not specifically teach the first dynamic network information table is included in a program association table of the first transport stream. Nobakht teaches the first dynamic network information table is included in a program association table of the first transport stream, (e.g. col. 11, lines 29 – 64 & Figure 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Nobakht with the combine inventions of Kenner and Haeri because of similar reasons stated above.

32. As per claim 46, as closely interpreted by the Examiner, Kenner and Haeri do not specifically teach the second dynamic network information table is included in a program association table of the second transport stream. Nobakht teaches the second dynamic network information table is included in a program association table of the second transport stream, (e.g. col. 11, lines 29 – 64 & Figure 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Nobakht with the combine inventions of Kenner and Haeri because of similar reasons stated above.

33. As per claim 47, as closely interpreted by the Examiner, Kenner teaches the transmitter is a plurality of transmitters, each transmitter having an identifier associated therewith, and the processor is adapted to create a dynamic network information table having a transmitter identifier included therein for each transmitter, (e.g., col. 18, line 30 – col. 19, line 50, IP address).

34. Claims 60 and 62 are rejected for similar reasons as stated above.

35. Claims 48 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner and Haeri in view of Nakamura et al. (5913039) (hereinafter Nakamura).

36. As per claim 48, as closely interpreted by the Examiner, Kenner and Haeri do not specifically teach the processor is further adapted to monitor the first communication link and respond to changes in the first communication link by generating an alert message and sending the alert message to the transmitter, wherein the transmitter transmits the alert message through the second communication link.

37. Nakamura teaches the processor is further adapted to monitor the first communication link and respond to changes in the first communication link by generating an alert message and sending the alert message to the transmitter, wherein the transmitter transmits the alert message through the second communication link, (e.g. col. 10, line 28 – col. 11, line 13 & col. 11, line 35 – col. 12, line 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Nakamura with the combine inventions of Kenner and Haeri

because once the server control unit gives the signal to the transmission video name in the transmission schedule table in job scheduling storage unit, the timer of the client in alarm interrupt unit starts and therefore aiding in the scheduling of which data streams to store in a device.

38. Claim 56 is rejected for similar reasons as stated above.

39. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner and Haeri in view of Pecus et al. (6886029) (hereinafter Pecus).

40. As per claim 55, Kenner and Haeri do not specifically teach the network information includes bit error information. Pecus teaches the network information includes bit error information, (e.g., col. 30, lines 5 – 19). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Pecus with the combine inventions of Kenner and Haeri because utilizing a bit error rate allows the users node identify when a transmission is not complete and what packets need to be re-transmitted therefore allowing a complete transmission.

Response to Arguments

41. Applicant's arguments filed 01/29/2009 have been fully considered but they are not persuasive.

42. **In the Remarks**, Applicant states in substance that Kenner does not teach an “upstream sub-table including information associated with transmission characteristics of one or more devices positioned in the digital subscriber network upstream with respect to the first device” and “dynamic network information table”.

43. As to this Remark, the Examiner will go through and the limitations and how they may be interpreted in light of the claim language. Applicant states that Kenner does not teach a “dynamic network information table” and that the table taught in Kenner is not "dynamic". Applicant has stated nothing in the claim that would specifically give patentable weight to the term "dynamic". Applicant merely names their table a “dynamic network information table”. All that is claimed about the “dynamic network information table” is that it includes a device specific information and transmission characteristics of other devices "upstream" to the receiver with other subtables. As one can clearly see in the independent claims, there is nothing "dynamic" about the Applicant's table, it is nothing more than information about devices. The claims to not state that the tables change or update in any manner which could be interpreted as truly dynamic. Therefore the prior art teaches a table similar to the Applicant's, it is just not named the same. As for the Applicant's over analysis of the term "upstream", the term is merely relative to a point or location. In the art, all server or ISPs devices are "upstream" to a user’s device and those devices are "downstream" to the user, this is similar to "uploading" and "downloading" as known in the art. This would mean that no mater where the ISP devices are in the network, they are upstream to the user. This is very clear in the prior art and can also be seen in Fijolek et al. 6986157, column 1, lines 53 - 67, noted that this reference is not used in the rejection but merely to proved a definition that is known in the prior art.

44. As for the information tables themselves and what they contain in view of the Examiner's interpretation, Applicant will be asked to draw their attention to columns 18 – 21. In which one can see that the list of potential sites for a user to download information is sent to them and the user's device makes the official request for information, col. 19, lines 1 – 50 and col. 20, line 50 – col. 21, line 4. Applicant does not claim what specifically information associated with transmission characteristics could be and is therefore interpreted by the Examiner as a list of different addresses for providing data to the user. Applicant has not claimed anything specific that would further limit the claims so not to be interpreted as such or provided any evidence that an address could not be interpreted as such. Furthermore, the sublists are updated as seen in column 19, lines 16 – 28, which would also make them "dynamic". As for the teachings of the first device sending their information to a user, Haeri was utilized for teaching a routing environment that propagates all routing information to a requesting user, which would include the last router in the "chain" or "line" of routers.

45. Applicant further states that none of the other cited prior art teaches the claim limitations stated above in this Remark. Examiner's response to the Remarks clarifies where the teachings and interpretations are and therefore the other remarks are addressed as stated above.

Conclusion

46. **Applicant is invited to contact the Examiner to further prosecution if there are any other discrepancies in light of the interpretation of art and the claimed invention that can be communicated better in an interview.**

47. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

48. a. Oz et al. U.S. Patent No. 7181759.

49. b. Fijolek et al. U.S. Patent No. 6986157.

50. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. ENGLAND whose telephone number is (571)272-3912. The examiner can normally be reached on Mon-Thur, 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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